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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11

12 PAMELA PHILLIPS, an individual,) Case No.
13 Plaintiff,) **VERIFIED COMPLAINT FOR DAMAGES**
14 v.) **JURY TRIAL DEMANDED**
15 JPMORGAN CHASE BANK, N.A.,)
16 Defendant.)
17)
18)

19 **I. INTRODUCTION**

20 1. Defendant made repeated telephone calls to Plaintiff's
21 cellular telephone, in connection with an attempt to collect a
22 debt and without her consent, including calling her numerous
23 times in one day.

24 2. Defendant used automated dialing systems, and pre-
25 recorded messages to telephone Plaintiff's cellular phones in

1 violation of the Telephone Consumer Protection Act, and the
2 Rosenthal Fair Debt Collection Practices Act.

3 3. Plaintiff suffered physical and emotional injury,
4 including severe and substantial emotional distress, and actual
5 damages including but not limited to, anxiety, emotional
6 distress, stress, frustration, loss of concentration, amongst
7 other injuries.

8 4. This is an action for damages brought by a consumer to
9 redress the Defendant's violations of California's Rosenthal
10 Fair Debt Collection Practices Act, Civil Code Section 1788 et
11 seq. (hereinafter, "state act"), and related common law claims,
12 which prohibit debt collectors from engaging in abusive,
13 deceptive and unfair practices in their collection of consumer
14 debts. In 2000, the California legislature incorporated most of
15 the Federal Fair Debt Collection Practices Act (15 U.S.C. §
16 1692, et seq.) into the California FDCPA. See Civil Code
17 §1788.17.

18 5. According to 15 U.S.C. § 1692:

19
20 There is abundant evidence of the use of abusive,
21 deceptive, and unfair debt collection practices
22 by many debt collectors. Abusive debt collection
23 practices contribute to the number of personal
bankruptcies, to marital instability, to the loss of
jobs, and to **invasions of individual privacy**.

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1 **II. JURISDICTION AND VENUE**

2 6. Jurisdiction of this Court arises under 15 U.S.C. §
3 1692k(d), 28 U.S.C. § 1337, and supplemental jurisdiction exists
4 for the state law claims pursuant to 28 U.S.C. § 1367. Venue in
5 this District is proper in that Defendant transacts business
6 here and the conduct complained of occurred here.

7 **III. PARTIES**

8 7. Plaintiff PAMELA PHILLIPS (hereinafter "Plaintiff") is
9 a natural person residing in Contra Costa County in the State of
10 California.

11 8. On information and belief, Defendant JPMORGAN CHASE
12 BANK, N.A. is a foreign business corporation doing business in
13 California (hereinafter "CHASE"). CHASE, in the ordinary course
14 of business, regularly attempts to collect debts on its own
15 behalf.

16 9. Defendant CHASE is a "debt collector" as defined by
17 California Civil Code § 1788.2.

18 10. At all times mentioned herein, Defendants was acting
19 within the course and scope of such agency or employment. The
20 Defendant is liable to the Plaintiff for its conduct. Defendant
21 approved, authorized and/or ratified the wrongful acts and
22 omissions herein.
23
24
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1 11. Any reference hereinafter to "Defendant" or "CHASE",
2 without further qualification, is meant by Plaintiff to refer to
3 such Defendant named above.

4 **IV. FIRST CAUSE OF ACTION - ROSENTHAL FDCA**

5 12. Plaintiff repeats, re-alleges, and incorporates by
6 reference all of the paragraphs above as though fully stated
7 herein.

8 13. The foregoing acts and omissions by this Defendant
9 with respect to Plaintiff in its attempt to collect a consumer
10 debt from Plaintiff constitutes numerous and multiple unfair,
11 deceptive, misleading practices made unlawful pursuant to the
12 California Rosenthal Fair Debt Collection Practices Act,
13 including but not limited to Civil Code §§ 1788-1788.32,
14 including §§ 1788.11(d), 1788.11(e), and 1788.17 by violating 15
16 U.S.C. §§ 1692b(2) and (3), 1692d and d(5), 1692e and e(5), and
17 1692f.

18 14. Plaintiff is entitled to recover statutory damages,
19 actual damages, reasonable attorney's fees and costs.
20

21 **V. SECOND CAUSE OF ACTION - INTRUSION UPON SECLUSION**

22 15. Plaintiff repeats, re-alleges, and incorporates by
23 reference all of the paragraphs above as though fully stated
24 herein.
25

1 16. The foregoing acts of Defendant as described herein
2 constitute an invasion of the Plaintiff's privacy and an
3 intrusion upon her right of seclusion.

4 17. Plaintiff has a common law right to, and a reasonable
5 expectation of privacy, her home and place of employment, and in
6 regard to her private affairs.

7 18. Defendant's abusive and improper collection practices
8 in the collection of this debt constituted a substantial
9 invasion upon Plaintiff's seclusion and privacy, and would be
10 highly offensive to a reasonable person.

11 19. Defendant intended to cause emotional distress and/or
12 engaged in reckless disregard of the probability of causing
13 Plaintiff's emotional distress.

14 20. As a proximate result of Defendant's conduct,
15 Plaintiff has suffered damages in an amount to be determined by
16 proof and a finder of fact at trial.

17 21. Defendant acted with oppression, fraud, and/or malice,
18 thereby entitling Plaintiff to punitive damages in an amount
19 according to proof and a finder of fact at trial.
20
21

22 **VI. THIRD CAUSE OF ACTION - TCPA**

23 22. Plaintiff repeats, re-alleges and incorporates by
24 reference all other paragraphs.
25

1 23. At all times relevant to this complaint, the Plaintiff
2 was a "person" as defined by the TCPA 47 U.S.C. § 153(32).

3 24. At all times relevant to this complaint, the Defendant
4 has owned, operated, and or controlled "customer premises
5 equipment" as defined by the TCPA 47 U.S.C. § 153(14) that
6 originated, routed, and/or terminated telecommunications.

7 25. The Defendant at all times relevant to the complaint
8 herein engages in "telecommunications" defined by the TCPA
9 U.S.C. § 153(43).

10 26. The Defendant at all times relevant to the complaint
11 herein engages in "interstate" communications by the TCPA U.S.C.
12 § 153(22).

13 27. At all times relevant to this complaint, the Defendant
14 has used, controlled, and/or operated "wire communications" as
15 defined by the TCPA 47 U.S.C. § 153(52), that existed as
16 instrumentalities of interstate and intrastate commerce.

17 28. At all times relevant to this complaint, the Defendant
18 has used, controlled, and/or operated "automatic telephone
19 dialing systems" as defined by the TCPA 47 U.S.C. § 227(a)(1)
20 and 47 C.F.R. § 64.1200(f)(1).

21 29. Defendant violated the TCPA, 47 U.S.C. § 227(b)(1)(A),
22 by using an automatic telephone dialing system to telephone
23 Plaintiff's cellular phone in an attempt to collect an alleged
24 debt.
25

1 30. Defendant frequently made calls to Plaintiff's cell
2 phone using an automatic telephone dialing system (including an
3 automated dialing machine, dialer and auto-dialer) and/or an
4 artificial or prerecorded voice.

5 31. Defendant violated the Telephone Consumer Protection
6 Act ("TCPA") 47 U.S.C. § 227(b)(1)(A), by using an automatic
7 telephone dialing system to telephone a cellular phone, without
8 Plaintiff's consent.

9 32. Defendant's violations were willful and knowing.

10 33. As a result of these violations of the TCPA, Defendant
11 is liable to Plaintiff for statutory damages, including treble
12 damages.
13

14 34. Defendant engaged in willful and knowing violations of
15 the Telephone Consumer Protection Act ("TCPA") 47 U.S.C. §
16 227(b)(1)(A).

17 35. Defendant's acts were willful, intentional and
18 knowing.

19 36. Defendant acted with oppression, fraud, and/or malice,
20 thereby entitled Plaintiff to punitive damages in an amount
21 according to proof and a finder of fact at trial.

22 37. Plaintiff is entitled to recover actual and punitive
23 damages.
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VII. FOURTH CAUSE OF ACTION - NEGLIGENCE

38. Plaintiff repeats, re-alleges, and incorporates by reference all of the paragraphs above as though fully stated therein.

39. Defendant's outrageous, abusive and intrusive acts as described herein constituted negligent infliction of emotional distress.

40. Plaintiff suffered (1) serious emotional distress, (2) actually and proximately caused by (3) wrongful conduct (4) by a defendant who should have foreseen that the conduct would cause such distress.

41. Defendant's conduct as described herein was wrongful conduct in that the Defendant conducted its business in an abusive, oppressive, and harassing manner.

42. Defendant's actions and omissions as described herein constitute negligence in that Defendant owed Plaintiff a duty of reasonable care in the collection of the alleged debt, and use of the telephone in an attempt to collect such debts, said duties were breached, and said breach was the proximate cause of damages suffered by Plaintiff.

43. Defendant owed a duty to refrain from outrageous and unlawful calls in connection with its attempt to collect a debt.

44. Defendant's actions and omissions demonstrate a conscious disregard of the rights or safety of others, and

1 constitute despicable conduct that subjected Plaintiff to cruel
2 and unjust hardship in conscious disregards of her rights.

3 45. Plaintiff suffered damages due to Defendant's actions
4 in an amount to be determined at trial.

5 46. Plaintiff is entitled to punitive damages for the
6 actions and omissions of the Defendant as described herein.

7 **VIII. FIFTH CAUSE OF ACTION - NEGLIGENT TRAINING AND**
8 **SUPERVISION**

9 47. Plaintiff incorporates by reference the above
10 paragraphs as though fully stated herein below.

11 48. Defendant negligently trained and supervised its
12 employees and agents as to the performance of their job duties
13 and as a result of such negligent instruction and supervision,
14 the employees/agents while carrying out their job duties caused
15 injury and damage to Plaintiff.

16 49. As a direct and proximate result of Defendant's
17 unlawful conduct, Plaintiff has suffered damages in an amount to
18 be determined at trial.

19 50. Defendant acted with oppression, and/or malice,
20 thereby entitled Plaintiff to punitive damages in an amount to
21 be determined at trial. Defendant acted in a despicable manner
22 and acted with a conscious disregard to the rights of Plaintiff.

23 WHEREFORE, Plaintiff respectfully prays that judgment be
24 entered against the Defendant for the following:
25

- 1 A. Statutory and actual damages pursuant to
2 California Civil Code § 1788 et seq.;
- 3 B. Costs and reasonable attorney's fees pursuant to
4 Civil Code § 1788 et seq.;
- 5 C. Actual and punitive damages;
- 6 D. Award statutory damages in the amount of
7 \$500.00 for each violation of the TCPA against
8 All of the Defendants, and/or treble damages for
9 each willful or knowing violation of the TCPA
10 pursuant to 47 U.S.C. §227(b)(3)(B).
- 11 E. For such other and further relief as may be
12 just and proper.
13

14 DATED: May 21, 2015

Respectfully submitted,

15 DELTA LAW GROUP

16
17 BY: 

JIM G. PRICE

Attorneys for Plaintiff

PAMELA PHILLIPS

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DEMAND FOR JURY TRIAL

Please take notice that Plaintiff demands trial by jury in
this action.

DATED: May 21, 2015

DELTA LAW GROUP

BY: 

JIM G. PRICE

Attorneys for Plaintiff

PAMELA PHILLIPS


VERIFICATION

I, PAMELA PHILLIPS, declare:

I am the Plaintiff in this action. I have read the foregoing document entitled: **VERIFIED COMPLAINT FOR DAMAGES** and know the contents thereof. The same is true of my own knowledge, except as to those matters stated therein on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 20th day of May, 2015, at Antioch, California.


PAMELA PHILLIPS